HOLOGIC INC
Form 10-Q
February 07, 2013
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# UNITED STATES

# SECURITIES AND EXCHANGE COMMISSION

**Washington, D.C. 20549**

# FORM 10-Q

**(Mark One)**

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the quarterly period ended December 29, 2012**

**or**

¨ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from _____ to _____**

**Commission File Number: 0-18281**

# Hologic, Inc.

**(Exact name of registrant as specified in its charter)**

| **Delaware** | **04-2902449** |
|---|---|
| **(State of incorporation)** | **(I.R.S. Employer Identification No.)** |
| **35 Crosby Drive,** | |
| **Bedford, Massachusetts** | **01730** |
| **(Address of principal executive offices)** | **(Zip Code)** |

**(781) 999-7300**

**(Registrant s telephone number, including area code)**

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No ¨

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check One):

| | |
|---|---|
| Large accelerated filer x | Accelerated filer ¨ |
| Non-accelerated filer ¨ (Do not check if a smaller reporting company) | Smaller reporting company ¨ |

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act.) Yes ¨ No x

As of January 30, 2013, 267,696,863 shares of the registrant s Common Stock, $0.01 par value, were outstanding.

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## PART I FINANCIAL INFORMATION

**Item 1. Financial Statements (unaudited)**

**HOLOGIC, INC.**

**CONSOLIDATED STATEMENTS OF INCOME**

**(Unaudited)**

**(In thousands, except per share data)**

| | Three Months Ended | |
|---|---|---|
| | December 29, 2012 | December 24, 2011 |
| Revenues: | | |
| Product sales | $ 535,202 | $ 392,096 |
| Service and other revenues | 96,160 | 80,615 |
| | 631,362 | 472,711 |
| Costs and expenses: | | |
| Cost of product sales | 223,493 | 131,944 |
| Cost of product sales amortization of intangible assets | 75,287 | 46,171 |
| Cost of service and other revenues | 50,909 | 45,226 |
| Research and development | 51,509 | 28,342 |
| Selling and marketing | 94,443 | 77,460 |
| General and administrative | 54,391 | 46,495 |
| Amortization of intangible assets | 28,526 | 14,842 |
| Contingent consideration compensation expense | 29,486 | 10,441 |
| Contingent consideration fair value adjustments | 10,040 | 5,122 |
| Gain on sale of intellectual property, net | (53,884) | |
| Restructuring charges, net | 3,933 | (91) |
| | 568,133 | 405,952 |
| Income from operations | 63,229 | 66,759 |
| Interest income | 260 | 662 |
| Interest expense | (72,081) | (29,509) |
| Other income, net | 1,239 | 1,992 |
| (Loss) income before income taxes | (7,353) | 39,904 |
| (Benefit) provision for income taxes | (10,471) | 19,092 |
| Net income | $ 3,118 | $ 20,812 |
| Net income per common share: | | |
| Basic | $ 0.01 | $ 0.08 |
| Diluted | $ 0.01 | $ 0.08 |

Weighted average number of common shares outstanding:

| | | |
|---|---|---|
| Basic | 266,344 | 262,717 |
| Diluted | 269,379 | 264,958 |

See accompanying notes.

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**HOLOGIC, INC.**

**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**

**(Unaudited)**

**(In thousands)**

| | Three Months Ended | |
|---|---|---|
| | December 29, 2012 | December 24, 2011 |
| Net income | $ 3,118 | $ 20,812 |
| Foreign currency translation adjustment | 1,969 | (358) |
| Unrealized loss on available-for-sale security | (557) | |
| Other comprehensive income (loss) | 1,412 | (358) |
| Comprehensive income | $ 4,530 | $ 20,454 |

*See accompanying notes.*

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**HOLOGIC, INC.**

**CONSOLIDATED BALANCE SHEETS**

**(Unaudited)**

**(In thousands, except per share data)**

| | December 29, 2012 | September 29, 2012 |
|---|---|---|
| ASSETS | | |
| Current assets: | | |
| Cash and cash equivalents | $ 718,471 | $ 560,430 |
| Restricted cash | 2,094 | 5,696 |
| Accounts receivable, less reserves of $6,662 and $6,396, respectively | 405,653 | 409,333 |
| Inventories | 345,309 | 367,191 |
| Deferred income tax assets | | 11,715 |
| Prepaid income taxes | 51,307 | 69,845 |
| Prepaid expenses and other current assets | 45,950 | 44,301 |
| Other current assets assets held-for-sale | 91,452 | 94,503 |
| Total current assets | 1,660,236 | 1,563,014 |
| Property, plant and equipment, net | 504,071 | 507,998 |
| Intangible assets, net | 4,195,538 | 4,301,250 |
| Goodwill | 3,941,430 | 3,942,779 |
| Other assets | 167,280 | 162,067 |
| Total assets | $ 10,468,555 | $ 10,477,108 |
| LIABILITIES AND STOCKHOLDERS EQUITY | | |
| Current liabilities: | | |
| Accounts payable | $ 76,367 | $ 87,223 |
| Accrued expenses | 436,283 | 372,381 |
| Deferred revenue | 121,152 | 129,688 |
| Current portion of long-term debt | 798,937 | 64,435 |
| Deferred income tax liabilities | 111,611 | |
| Other current liabilities assets held-for-sale | 7,403 | 7,622 |
| Total current liabilities | 1,551,753 | 661,349 |
| Long-term debt, net of current portion | 4,237,085 | 4,971,179 |
| Deferred income tax liabilities | 1,576,472 | 1,771,585 |
| Deferred service obligations long-term | 16,440 | 13,714 |
| Other long-term liabilities | 102,429 | 98,250 |
| Commitments and contingencies (Note 6) | | |
| Stockholders equity: | | |
| Preferred stock, $0.01 par value 1,623 shares authorized; 0 shares issued | | |
| Common stock, $0.01 par value 750,000 shares authorized; 267,373 and 265,635 shares issued, respectively | 2,674 | 2,656 |
| Additional paid-in-capital | 5,415,454 | 5,396,657 |
| Accumulated deficit | (2,440,436) | (2,443,554) |
| Accumulated other comprehensive income | 8,202 | 6,790 |
| Treasury stock, at cost 219 shares | (1,518) | (1,518) |

| | | |
|---|---|---|
| Total stockholders equity | 2,984,376 | 2,961,031 |
| Total liabilities and stockholders equity | $ 10,468,555 | $ 10,477,108 |

See accompanying notes.

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**HOLOGIC, INC.**

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

**(Unaudited)**

**(In thousands)**

| | Three Months Ended | |
|---|---|---|
| | December 29, 2012 | December 24, 2011 |
| OPERATING ACTIVITIES | | |
| Net income | $ 3,118 | $ 20,812 |
| Adjustments to reconcile net income to net cash provided by operating activities: | | |
| Depreciation | 24,342 | 16,110 |
| Amortization | 103,813 | 61,013 |
| Non-cash interest expense amortization of debt discount and deferred financing costs | 20,679 | 19,960 |
| Stock-based compensation expense | 12,066 | 8,657 |
| Excess tax benefit related to equity awards | (2,185) | (1,725) |
| Deferred income taxes | (70,123) | (13,106) |
| Gain on sale of intellectual property, net | (53,884) | |
| Fair value adjustments to contingent consideration | 10,040 | 5,122 |
| Fair value write-up of inventory sold | 29,876 | |
| Loss on disposal of property and equipment | 906 | 373 |
| Other | (1,149) | (1,825) |
| Changes in operating assets and liabilities: | | |
| Accounts receivable | 6,903 | (6,616) |
| Inventories | (6,004) | (11,474) |
| Prepaid income taxes | 18,538 | 340 |
| Prepaid expenses and other assets | (1,177) | (530) |
| Accounts payable | (10,629) | (499) |
| Accrued expenses and other liabilities | 76,138 | 11,306 |
| Deferred revenue | (6,243) | 3,813 |
| Net cash provided by operating activities | 155,025 | 111,731 |
| INVESTING ACTIVITIES | | |
| Payment of additional acquisition consideration | (16,808) | (9,784) |
| Proceeds from sale of business, net of cash transferred | 1,488 | |
| Purchase of property and equipment | (11,233) | (6,790) |
| Increase in equipment under customer usage agreements | (11,214) | (7,886) |
| Purchase of insurance contracts | (4,000) | |
| Proceeds from sale of intellectual property | 60,000 | |
| Purchase of cost method investments | (3,625) | (150) |
| Decrease in other assets | 1,144 | 9 |
| Net cash provided by (used in) investing activities | 15,752 | (24,601) |
| FINANCING ACTIVITIES | | |
| Repayment of long-term debt | (16,250) | |
| Payment of contingent consideration | (3,408) | (4,105) |
| Net proceeds from issuance of common stock pursuant to employee stock plans | 12,777 | 1,627 |
| Excess tax benefit related to equity awards | 2,185 | 1,725 |
| Payment of employee restricted stock minimum tax withholdings | (7,885) | (5,561) |

| | | |
|---|---|---|
| Net cash used in financing activities | (12,581) | (6,314) |
| Effect of exchange rate changes on cash and cash equivalents | (155) | (66) |
| Net increase in cash and cash equivalents | 158,041 | 80,750 |
| Cash and cash equivalents, beginning of period | 560,430 | 712,332 |
| Cash and cash equivalents, end of period | $ 718,471 | $ 793,082 |

See accompanying notes.

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**HOLOGIC, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**(Unaudited)**

*(all tabular amounts in thousands except per share data)*

**(1) Basis of Presentation**

The consolidated financial statements of Hologic, Inc. (the Company ) presented herein have been prepared pursuant to the rules of the Securities and Exchange Commission for quarterly reports on Form 10-Q and do not include all of the information and disclosures required by U.S. generally accepted accounting principles. These financial statements should be read in conjunction with the consolidated financial statements and notes thereto for the year ended September 29, 2012, included in the Company s Form 8-K filed with the Securities and Exchange Commission on January 28, 2013. The Form 8-K was filed to add a footnote to the consolidated financial statements for the requirement to provide financial information of the Company s guarantors of its Senior Notes in connection with registering the Senior Notes on a Registration Statement on Form S-4 filed with the Securities and Exchange Commission on January 28, 2013. In the opinion of management, the financial statements and notes contain all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation of the Company s financial position, results of operations and cash flows for the periods presented.

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany transactions and balances have been eliminated in consolidation.

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make significant estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Actual results could differ from management s estimates if past experience or other assumptions do not turn out to be substantially accurate. Operating results for the three months ended December 29, 2012 are not necessarily indicative of the results to be expected for any other interim period or the entire fiscal year ending September 28, 2013.

*Subsequent Events Consideration*

The Company considers events or transactions that occur after the balance sheet date but prior to the issuance of the financial statements to provide additional evidence for certain estimates or to identify matters that require additional disclosure. Subsequent events have been evaluated as required. There were no material recognized subsequent events recorded in the unaudited consolidated financial statements as of and for the three months ended December 29, 2012.

**(2) Fair Value Measurements**

*Assets/Liabilities Measured and Recorded at Fair Value on a Recurring Basis*

As of December 29, 2012 and September 29, 2012, the Company s financial assets that are re-measured at fair value on a recurring basis included $0.3 million in money market mutual funds in both periods that are classified as cash and cash equivalents in the Consolidated Balance Sheets. Money market funds are classified within Level 1 of the fair value hierarchy and are valued using quoted market prices for identical assets. As a result of its Gen-Probe acquisition, the Company has an equity investment in a publicly-traded company and mutual funds, both of which are valued using quoted market prices, representing Level 1 assets. The Company has a payment obligation to the participants under its Nonqualified Deferred Compensation Plan ( DCP ) and the deferred compensation plan assumed in the Gen-Probe acquisition. This aggregate liability is recorded at fair value based on the underlying value of certain hypothetical investments under the DCP and actual investments under the plan assumed from Gen-Probe as designated by each participant for their benefit. Since the value of the deferred compensation plan obligations are based on market prices, the liability is classified within Level 1. In addition, the Company has contingent consideration liabilities related to its acquisitions that are recorded at fair value. The fair values of these liabilities are based on Level 3 inputs and are discussed in Notes 3 and 6(a).

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Assets and liabilities measured and recorded at fair value on a recurring basis consisted of the following at December 29, 2012:

| | | Fair Value at Reporting Date Using | | |
|---|---|---|---|---|
| | Balance as of December 29, 2012 | Quoted Prices in Active Market for Identical Assets (Level 1) | Significant Other Observable Inputs (Level 2) | Significant Unobservable Inputs (Level 3) |
| Assets: | | | | |
| Money market funds | $ 315 | $ 315 | $ | $ |
| Marketable securities: | | | | |
| Equity security | 5,472 | 5,472 | | |
| Mutual funds | 6,618 | 6,618 | | |
| Total | $ 12,405 | $ 12,405 | $ | $ |
| Liabilities: | | | | |
| Deferred compensation liabilities | $ 34,852 | $ 34,852 | $ | $ |
| Contingent consideration | 93,000 | | | 93,000 |
| Total | $ 127,852 | $ 34,852 | $ | $ 93,000 |

Changes in the fair value of recurring fair value measurements, which solely consisted of contingent consideration liabilities, using significant unobservable inputs (Level 3) were as follows:

| | Three Months Ended | |
|---|---|---|
| | December 29, 2012 | December 24, 2011 |
| Balance at beginning of period | $ 86,368 | $ 103,790 |
| Fair value adjustments | 10,040 | 5,122 |
| Payments made | (3,408) | (4,105) |
| Balance at end of period | $ 93,000 | $ 104,807 |

*Assets Measured and Recorded at Fair Value on a Nonrecurring Basis*

The Company remeasures the fair value of certain assets and liabilities upon the occurrence of certain events. Such assets are comprised of cost-method equity investments and long-lived assets, including property, plant and equipment, intangible assets and goodwill.

The Company holds certain cost-method equity investments in non-publicly traded securities aggregating $19.6 million and $16.0 million at December 29, 2012 and September 29, 2012, respectively, which are included in other long-term assets on the Company s Consolidated Balance Sheets. These investments are generally carried at cost. As the inputs utilized for the Company s periodic impairment assessment are not based on observable market data, these cost method investments are classified within Level 3 of the fair value hierarchy. To determine the fair value of these investments, the Company uses all available financial information related to the entities, including information based on recent or pending third-party equity investments in these entities. In certain instances, a cost method investment s fair value is not estimated as there are no identified events or changes in circumstances that may have a significant adverse effect on the fair value of the investment and to do so would be impractical.

*Disclosure of Fair Value of Financial Instruments*

The Company s financial instruments mainly consist of cash and cash equivalents, accounts receivable, marketable securities, cost-method equity investments, insurance contracts, deferred compensation plan liabilities, accounts payable and debt obligations. The carrying amounts of the Company s cash equivalents, accounts receivable and accounts payable approximate their fair value due to the short-term nature of these instruments. The carrying amount of the insurance contracts are recorded at the cash surrender value, as required by U.S. generally accepted accounting principles, which approximates fair value, and the related DCP liability is recorded at fair value. The Company believes the carrying amounts of its cost-method investments approximate fair value.

Amounts outstanding under the Company s Credit Agreement of $2.48 billion aggregate principal are subject to variable rates of interest based on current market rates, and as such, the Company believes the carrying amount of these obligations approximates fair value. In addition, based on the recent issuance of its Senior Notes, the Company believes their carrying amount approximates fair value.

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The fair value of the Company s Convertible Notes is based on the trading prices of the respective notes at the dates noted and represents a Level 1 measurement. The Company had $1.57 billion and $1.56 billion of Convertible Notes recorded (See Note 5) as of December 29, 2012 and September 29, 2012, respectively. The aggregate principal amount of the Convertible Notes at both periods was $1.725 billion. The Company has three issues of Convertible Notes outstanding: 2007 Notes (principal of $775.0 million), 2010 Notes (principal of $450.0 million), and the 2012 Notes (principal of $500.0 million).

The estimated fair values of the Company s Convertible Notes are as follows:

| | December 29, 2012 | September 29, 2012 |
|---|---|---|
| 2007 Notes | $ 771,100 | $ 771,600 |
| 2010 Notes | 504,700 | 505,600 |
| 2012 Notes | 496,300 | 490,700 |
| | $ 1,772,100 | $ 1,767,900 |

**(3) Business Combinations**

**Gen-Probe Incorporated**

On August 1, 2012, the Company completed the acquisition of Gen-Probe and acquired all of the outstanding shares of Gen-Probe. Pursuant to the merger agreement, each share of common stock outstanding immediately prior to the effective time of the acquisition was cancelled and converted into the right to receive $82.75 in cash. In addition, all outstanding restricted shares, restricted stock units, performance shares, and those stock options granted prior to February 8, 2012 were cancelled and converted into the right to receive $82.75 per share in cash less the exercise price, as applicable. Stock options granted after February 8, 2012 were converted into stock options to acquire shares of Hologic common stock determined by the conversion formula defined in the merger agreement. The Company paid the Gen-Probe shareholders $3.8 billion and $169.0 million to equity award holders. The Company funded the acquisition using available cash and financing consisting of senior secured credit facilities and Senior Notes (see Note 5 for further discussion) resulting in aggregate proceeds of $3.48 billion, excluding financing fees to the underwriters. The Company incurred approximately $34.3 million of direct transaction costs, which were recorded within general and administrative expenses in fiscal 2012.

Gen-Probe, headquartered in San Diego, California, is a leader in molecular diagnostics products and services that are used primarily to diagnose human diseases and screen donated human blood. The Company expects this acquisition to enhance its molecular diagnostics franchise and to complement its existing portfolio of diagnostics products. Gen-Probe s results of operations are reported within the Company s Diagnostics reportable segment from the date of acquisition.

The purchase price consideration was as follows:

| | |
|---|---|
| Cash paid | $ 3,967,866 |
| Deferred payment | 1,655 |
| Fair value of stock options exchanged | 2,655 |
| Total purchase price | $ 3,972,176 |

The fair value of stock options exchanged, that were recorded as purchase price, represents the fair value of the Gen-Probe options converted into the Company s stock options attributable to pre-combination services pursuant to ASC 805, *Business Combinations* (ASC 805). The remainder of the fair value of these stock options of $23.2 million will be recognized as stock-based compensation expense over the remaining vesting period, which is approximately 3.5 years. The Company estimated the fair value of the stock options using a binomial valuation model with the following weighted average assumptions: risk free rate of 0.41%, expected volatility of 39.9%, expected life of 3.6 years and dividend of 0.0%. The weighted average fair value of stock options granted is $7.07 per share.

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The preliminary allocation of the purchase price presented below is based on estimates of the fair value of assets acquired and liabilities assumed as of August 1, 2012. The Company is continuing to obtain information to complete its valuation of intangible assets, as well as to determine the acquired assets and liabilities, including tax assets and liabilities. The components of the preliminary purchase price allocation are as follows:

| | |
|---|---|
| Cash | $ 205,463 |
| Accounts receivable | 80,301 |
| Inventory | 153,416 |
| Property, plant and equipment | 274,095 |
| Other assets | 191,868 |
| Assets held-for-sale, net | 87,465 |
| Accounts payable | (19,671) |
| Accrued expenses | (131,102) |
| Other liabilities | (19,255) |
| Identifiable intangible assets: | |
| Developed technology | 1,565,000 |
| In-process research and development | 227,000 |
| Customer contract | 585,000 |
| Trade names | 95,000 |
| Deferred income taxes, net | (973,524) |
| Goodwill | 1,651,120 |
| | |
| Purchase Price | $ 3,972,176 |

The purchase price has been allocated to the acquired assets and liabilities based on management s estimate of their fair values. During the first quarter of fiscal 2013, as the Company continues to complete its valuation procedures, it lowered the valuation of trade names by $2.0 million with an offsetting increase to goodwill. In addition, certain tax related adjustments were recorded.

Certain of Gen-Probe s assets have been designated as assets held-for-sale and have been recorded at fair value less the estimated cost to sell such assets. These represent non-core assets to the Company s business plan and are expected to be sold within one year of the acquisition. In the first quarter of fiscal 2013, the Company completed the sale of one of these asset groups for $2.2 million. On January 3, 2013, the Company entered into a definitive agreement to sell its LIFECODES business to Immucor for $85.0 million in cash, subject to adjustment, plus a contingent payment of an additional $10.0 million based on future revenue results. LIFECODES sells molecular and antibody-based assays in the markets of transplant diagnostics, specialty coagulation and transfusion medicine. The transaction is subject to customary closing conditions, including expiration of the applicable waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and an international regulatory review and is expected to close in the first half of fiscal 2013. Assets and liabilities held for sale are reflected separately in the Company s Consolidated Balance Sheet. The following represents the components of the asset groups classified as held-for-sale as of December 29, 2012:

| | |
|---|---|
| **Assets:** | |
| Cash | $ 2,272 |
| Accounts receivable | 7,549 |
| Inventory | 14,469 |
| Property and equipment | 13,431 |
| Other assets | 1,851 |
| Intangible assets and goodwill | 51,880 |
| | |
| Total assets held-for-sale | $ 91,452 |
| | |
| **Liabilities:** | |
| Accrued liabilities | (7,403) |
| | |
| Net assets held-for-sale | $ 84,049 |

As part of the preliminary purchase price allocation, the Company has determined the identifiable intangible assets are developed technology, in-process research and development ( IPR&D ), customer contracts, and trade names. The fair value of the intangible assets has been estimated using the income approach and the cash flow projections were discounted using rates ranging from 10% to 12%. The cash flows are based on estimates used to price the transaction, and the discount rates applied were benchmarked with reference to the implied rate of return from the transaction model and the weighted average cost of capital.

The developed technology assets are comprised of know-how, patents and technologies embedded in Gen-Probe s products and relate to currently marketed products and related instrument automation. In valuing the developed technology assets, consideration was only given to products that have received regulatory approval. The developed technology assets primarily comprise the significant product families used in diagnostic testing, and the majority of fair value relates to the APTIMA family of assays for testing of certain sexually transmitted diseases and microbial infectious diseases and the PROCLEIX family of assays for blood screening. The Company applied the Excess Earnings Method under the income approach to fair value the developed technology assets excluding the PROCLEIX technology asset. The Company applied the Relief-from-Royalty Method to fair value this asset.

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IPR&D projects relate to in-process projects that have not reached technological feasibility as of the acquisition date and have no alternative future use. The primary basis for determining technological feasibility of these projects is obtaining regulatory approval to market the underlying product, which primarily pertains to receiving approval to perform certain diagnostic testing on Gen-Probe s instrumentation, such as the PANTHER and TIGRIS systems. The Company recorded $227.0 million of IPR&D related to 6 projects. One project, valued at $7.0 million, received FDA approval in October 2012, and another project, valued at $27.0 million, received FDA approval in January 2013. Amortization of these assets begins once FDA approval is received. The other projects are expected to be completed within the next 6 months to 42 months with a total cost of approximately $51 million to complete such projects. Given the uncertainties inherent with product development and commercial introduction, there can be no assurance that any of the Company s product development efforts will be successful, completed on a timely basis or within budget, if at all. All of the IPR&D assets were valued using the multiple-period excess earnings method approach using a discount rate of 12.0%.

The customer contract intangible asset pertains to Gen-Probe s relationship with Novartis, and the Company used the Excess Earnings Method to estimate the fair value of this asset. Trade names relate to the Gen-Probe corporate name and the primary product names, and the Company used the Relief-from-Royalty Method to estimate the fair value of this asset.

Developed technology, customer contract and trade names are being amortized on a straight-line basis over a weighted average period of 12.5 years, 13.0 years and 11.0 years, respectively.

The Company estimated the fair value of property, plant and equipment using a combination of the cost and market approaches, depending on the component. The Company applied the cost approach as the primary method in estimating the fair value of land and buildings. In total, the fair value adjustment to increase the carrying amount of property, plant and equipment was $107.9 million, of which $70.6 million related to land and buildings.

The excess of the purchase price over the estimated fair value of the tangible net assets and intangible assets acquired was recorded to goodwill. The factors contributing to the recognition of the amount of goodwill were based on several strategic and synergistic benefits that are expected to be realized from the Gen-Probe acquisition. These benefits include the expectation that the combined company s complementary products in the molecular diagnostics market with Gen-Probe s fully automated product franchise will significantly broaden the Company s offering in women s health and diagnostics. The combined company is expected to benefit from a broader global presence and with Hologic s direct sales force and marketing in Europe and its investment in China distribution, the growth prospects of Gen-Probe s products are expected to be enhanced significantly. The combined company anticipates significant cross-selling opportunities within the diagnostics market through Hologic s larger channel coverage and physician sales team. None of the goodwill is expected to be deductible for income tax purposes.

The following unaudited pro forma information presents the combined financial results for the Company and Gen-Probe as if the acquisition of Gen-Probe had been completed as of the beginning of the fiscal year prior to the period of acquisition, September 26, 2010:

| | Three Months Ended December 24, 2011 |
|---|---|
| Revenue | $ 630,844 |
| Net loss | $ (10,195) |
| Basic and diluted net loss per common share | $ (0.04) |

The unaudited pro forma information for the three months ended December 24, 2011 was calculated after applying the Company s accounting policies and the impact of acquisition date fair value adjustments. These pro forma condensed consolidated financial results have been prepared for comparative purposes only and include certain adjustments to reflect pro forma results of operations as if the acquisition occurred on September 26, 2010, such as fair value adjustments to inventory, accounts receivable, and property, plant and equipment, increased expenses for restructuring charges and retention costs, increased interest expense on debt obtained to finance the transaction, lower investment income and increased amortization for the fair value of acquired intangible assets. The pro forma information does not reflect the effect of costs, other than restructuring and retention, or synergies that would have been expected to result from the integration of the acquisition. The pro forma information does not purport to be indicative of the results of operations that actually would have resulted had the combination occurred at the beginning of each period presented, or of future results of the consolidated entities.

**(4) Restructuring Charges**

In addition to monitoring the global macro-economic environment and impact on its businesses and products, the Company also evaluates its operations for opportunities to improve operational effectiveness and efficiency and to better align expenses with

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revenues. As a result of these assessments, the Company has undertaken various restructuring actions. These actions are described below. The following table displays charges taken related to restructuring actions in fiscal 2013 and 2012 and a rollforward of the charges to the accrued balances as of December 29, 2012.

| Restructuring Charges | Abandonment of Adiana Product Line | Consolidation of Diagnostics Operations | Closure of Indianapolis Facility | Other Operating Cost Reductions | Total |
|---|---|---|---|---|---|
| Fiscal 2012 charges: | | | | | |
| Non-cash impairment charge | $ 16,316 | $ 585 | $ | $ | $ 16,901 |
| Purchase orders and other contractual obligations | 3,099 | | | | 3,099 |
| Workforce reductions | 128 | 14,202 | 879 | 40 | 15,249 |
| Facility closure costs | | | | 430 | 430 |
| Other | | | 900 | | 900 |
| Total fiscal 2012 charges | $ 19,543 | $ 14,787 | $ 1,779 | $ 470 | $ 36,579 |
| Recorded to cost of product sales | $ 19,064 | $ | $ | $ | $ 19,064 |
| Recorded to restructuring | $ 479 | $ 14,787 | $ 1,779 | $ 470 | $ 17,515 |
| Fiscal 2013 charges: | | | | | |
| Workforce reductions | | 1,792 | 1,489 | | 3,281 |
| Other | | | 652 | | 652 |
| Total fiscal 2013 charges | $ | $ 1,792 | $ 2,141 | $ | $ 3,933 |
| **Rollforward of Accrued Restructuring** | | | | | |
| Total fiscal 2012 charges | $ 19,543 | $ 14,787 | $ 1,779 | $ 470 | $ 36,579 |
| Non-cash impairment charges | (16,316) | (585) | | | (16,901) |
| Stock compensation | | (3,500) | | | (3,500) |
| Severance payments | (128) | (2,423) | | (78) | (2,629) |
| Purchase orders and other contractual obligations payments | (2,572) | | | | (2,572) |
| Other payments | | | | (430) | (430) |
| Acquired | | 83 | | | 83 |
| Foreign exchange and other adjustments | | 22 | | 91 | 113 |
| Balance at September 29, 2012 | $ 527 | $ 8,384 | $ 1,779 | $ 53 | $ 10,743 |
| Fiscal 2013 charges | | 1,792 | 2,141 | | 3,933 |
| Stock compensation | | (222) | | | (222) |
| Severance payments | | (6,775) | | (53) | (6,828) |
| Purchase orders and other contractual obligations payments | (527) | | (211) | | (738) |
| Foreign exchange and other adjustments | | 5 | | | 5 |
| Balance at December 29, 2012 | $ | $ 3,184 | $ 3,709 | $ | $ 6,893 |

*Abandonment of Adiana Product Line*

At the end of the second quarter of fiscal 2012, the Company decided to cease manufacturing, marketing and selling its Adiana system, which was a product line within the Company s GYN Surgical reporting segment. Management determined that the product was not financially viable and would not become so in the foreseeable future. In addition, the Company settled its intellectual property litigation regarding the Adiana system with Conceptus, Inc., which did not result in any additional charges. In the second quarter of fiscal 2012, the Company recorded a charge of $18.3 million and recorded additional adjustments in fiscal 2012 resulting in an aggregate charge of $19.5 million. Of the total charge, $19.1 million was recorded within cost of product sales and $0.4 million was recorded in restructuring. The amount recorded in cost of product sales comprised impairment charges of $9.9 million to record inventory at its net realizable value, $6.5 million to write down certain manufacturing equipment and equipment placed at customer sites to its fair value that had no further utility, and $2.7 million for outstanding contractual purchase orders of raw materials and

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components that will not be utilized and other contractual obligations. In connection with this action, the Company terminated certain manufacturing and other personnel primarily at its Costa Rica location, resulting in severance charges of $0.1 million, and incurred other contractual charges of $0.3 million. All identified employees were terminated and paid as of September 29, 2012.

*Consolidation of Diagnostics Operations*

In connection with its acquisition of Gen-Probe, the Company implemented restructuring actions to consolidate its Diagnostics business, such as streamlining product development initiatives, reducing overlapping functional areas such as sales, marketing and general and administrative functions, and consolidation of manufacturing resources, field services and support. As a result, the Company terminated certain employees from Gen-Probe and its legacy diagnostics business in research and development, sales, marketing, and general and administrative functions. The Company recorded severance and benefit charges in fiscal 2012 of $13.3 million related to this action pursuant to ASC 420, *Exit or Disposal Cost Obligations* (ASC 420). The majority of these employees ceased working in the fourth quarter of fiscal 2012, and their full severance charge was recorded in the fourth quarter of fiscal 2012. In addition, certain of the terminated Gen-Probe employees had unvested stock options and the vesting terms were accelerated as a result of termination. As such, the severance charges in fiscal 2012 include $3.5 million of stock-based compensation expense. In the first quarter of fiscal 2013, the Company recorded $0.8 million of severance charges, including $0.2 million for stock-based compensation.

In addition, the Company is moving its legacy molecular diagnostics operations from Madison, Wisconsin to Gen-Probe s facilities in San Diego, California. This transfer is expected to be finalized by the end of calendar 2014, and the majority of employees in Madison will be terminated in fiscal 2013 and 2014. The Company is recording severance and benefit charges pursuant to ASC 420 and estimates the total severance and benefits charge to be approximately $6.4 million, which will be recorded ratably over the estimated service period of the affected employees. The Company recorded $1.0 million in the first quarter of fiscal 2013 and $0.9 million in the fourth quarter of fiscal 2012. The Company also recorded non-cash charges of $0.6 million in the fourth quarter of fiscal 2012 as a result of exiting certain research projects. Additional charges, which are not expected to be significant, will be recorded as the manufacturing operation is transferred and the facility is closed down. These charges will be recorded as they are incurred.

*Closure of Indianapolis Facility*

In the fourth quarter of fiscal 2012, the Company finalized its decision to transfer production of its interventional breast products, which are included within the Breast Health reporting segment, from its Indianapolis facility to its facility in Costa Rica. The transfer is expected to be completed in the first half of calendar 2014, and all employees at the Indianapolis location will be terminated. The Company is recording severance and benefit charges pursuant to ASC 420 and estimates the total severance and benefits charge to be approximately $6.4 million, which will be recorded ratably over the estimated service period of the affected employees. The Company recorded $1.5 million of severance benefits in the first quarter of fiscal 2013 and $0.9 million in the fourth quarter of fiscal 2012. In addition, the Company recorded $0.7 million in the first quarter of fiscal 2013 for additional miscellaneous items and $0.9 million in the fourth quarter of fiscal 2012 for amounts owed to the state of Indiana for employment credits. Additional charges, which are not expected to be significant, will be recorded as the manufacturing operation is transferred and the facility is closed down. These charges will be recorded as they are incurred.

*Consolidation of Selenium Panel Coating Production*

During the third quarter of fiscal 2012, the Company finalized its decision to consolidate its Selenium panel coating process and transfer the production line to its Newark, Delaware facility from its Hitec-Imaging German subsidiary. This production line is included within the Breast Health segment. The transfer is expected to be completed in the second half of fiscal 2013. In connection with this consolidation plan, the Company expects to terminate certain employees, primarily manufacturing personnel. Severance charges will be recorded pursuant to ASC 420 because the severance benefits qualify as one-time employee termination benefits. Since communication of the severance benefit to the affected employees had not been made as of December 29, 2012, no charges have been recorded as of December 29, 2012. Employees must continue to be employed by the Company until their employment is involuntarily terminated in order to receive the severance benefit. As such, the severance benefit will be recognized ratably over the required service period once the individual severance benefits are known and communicated to the employees. The termination communications began in January 2013. The Company expects to incur between $1.2 million and $1.4 million for severance charges in fiscal 2013.

**(5) Borrowings and Credit Arrangements**

The Company had total debt with a carrying value of $5.04 billion at December 29, 2012 and September 29, 2012. The Company s borrowings consisted of the following:

| | December 29, 2012 | September 29, 2012 |
|---|---|---|
| Current debt obligations, net of debt discount: | | |
| Convertible Notes | $ 734,476 | $ |
| Term Loan A | 49,603 | 49,582 |
| Term Loan B | 14,858 | 14,853 |
| Total current debt obligations | 798,937 | 64,435 |
| Long-term debt obligations, net of debt discount: | | |
| Term Loan A | 930,066 | 942,065 |
| Term Loan B | 1,467,191 | 1,470,454 |
| Senior Notes | 1,000,000 | 1,000,000 |
| Convertible Notes | 839,828 | 1,558,660 |
| Total long-term debt obligations | 4,237,085 | 4,971,179 |
| Total debt obligations | $ 5,036,022 | $ 5,035,614 |

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**Credit Agreement**

Borrowings outstanding under the credit and guaranty agreement (the Credit Agreement ) for the three months ended December 29, 2012 had a weighted average interest rate of 4.0%. The interest rates on the outstanding Term Loan A and Term Loan B borrowings at December 29, 2012 ranged from 3.21% to 4.5%. Interest expense under the Credit Agreement totaled $30.0 million for the three months ended December 29, 2012, which includes non-cash interest expense of $3.7 million related to the amortization of the deferred financing costs and accretion of the debt discount.

The Credit Agreement contains affirmative and negative covenants customarily applicable to senior secured credit facilities, including covenants restricting the ability of the Company and the guarantors, subject to negotiated exceptions, to: incur additional indebtedness and additional liens on their assets; engage in mergers or acquisitions or dispose of assets; enter into sale-leaseback transactions; pay dividends or make other distributions; voluntarily prepay other indebtedness; enter into transactions with affiliated persons; make investments; and change the nature of their businesses. The credit facilities also contain total net leverage ratio and interest coverage ratio financial covenants measured as of the last day of each fiscal quarter, which are effective in our first quarter of fiscal 2013. The Company was in compliance with the Credit Agreement s covenants as of December 29, 2012.

The Company has evaluated the Credit Agreement for derivatives pursuant to ASC 815, *Derivatives and Hedging*, and identified embedded derivatives that require bifurcation as the features are not clearly and closely related to the host instrument. The embedded derivatives are a default provision, which could require additional interest payments, and provision requiring contingent payments to compensate the lenders for changes in tax deductions. The Company has determined that the fair value of these embedded derivatives was nominal as of December 29, 2012.

**Senior Notes**

The Company s 6.25% senior notes due 2020 (the Senior Notes ) mature on August 1, 2020 and bear interest at the rate of 6.25% per year, payable semi-annually on February 1 and August 1 of each year, commencing on February 1, 2013. The Company recorded interest expense of $16.0 million in the three months ended December 29, 2012, which includes non-cash interest expense of $0.4 million related to the amortization of the deferred financing costs related to the Senior Notes.

On August 1, 2012, in connection with the issuance of the Senior Notes, the Company and the Guarantors entered into an exchange and registration rights agreement with the initial purchasers of the Senior Notes. Pursuant to the terms of the registration rights agreement, the Company and the Guarantors agreed to (i) file a registration statement covering an offer to exchange the Senior Notes for a new issue of identical exchange notes registered under the Securities Act on or before 180 days from August 1, 2012, (ii) use commercially reasonable efforts to cause such registration statement to become effective, and (iii) use commercially reasonable efforts to complete the exchange prior to 270 days after August 1, 2012. The Company filed a Registration Statement on Form S-4 with the Securities and Exchange Commission on January 28, 2013. The Registration Statement has not yet been declared effective. Under certain circumstances, the Company and the Guarantors may be required to provide a shelf registration statement to cover resales of the Senior Notes.

**Convertible Notes**

In the first quarter of fiscal 2013, the Company has reclassified its 2007 Notes to short-term in accordance with U.S. generally accepted accounting principles as they are due on demand within one year of the balance sheet date. The holders of these notes can put them to the Company on December 13, 2013.

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The Convertible Notes and related equity components (recorded in additional paid-in-capital, net of deferred taxes) consisted of the following:

| | December 29, 2012 | September 29, 2012 |
|---|---|---|
| 2007 Notes principal amount | $ 775,000 | $ 775,000 |
| Unamortized discount | (40,524) | (50,591) |
| Net carrying amount | $ 734,476 | $ 724,409 |
| Equity component, net of taxes | $ 233,353 | $ 233,353 |
| 2010 Notes principal amount | $ 450,000 | $ 450,000 |
| Unamortized discount | (70,199) | (74,062) |
| Net carrying amount | $ 379,801 | $ 375,938 |
| Equity component, net of taxes | $ 60,054 | $ 60,054 |
| 2012 Notes principal amount | $ 500,000 | $ 500,000 |
| Unamortized discount | (39,973) | (41,687) |
| Net carrying amount | $ 460,027 | $ 458,313 |
| Equity component, net of taxes | $ 49,195 | $ 49,195 |

Interest expense under the Convertible Notes is as follows:

| | Three months ended | |
|---|---|---|
| | December 29, 2012 | December 24, 2011 |
| Amortization of debt discount | $ 15,644 | $ 18,953 |
| Amortization of deferred financing costs | 908 | 1,007 |
| Non-cash interest expense | 16,552 | 19,960 |
| 2.00% accrued interest | 8,610 | 8,578 |
| | $ 25,162 | $ 28,538 |

**(6) Commitments and Contingencies**

***(a) Contingent Earn-Out Payments***

In connection with certain of its acquisitions, the Company has incurred the obligation to make contingent earn-out payments tied to performance criteria, principally revenue growth of the acquired businesses over a specified period. In certain circumstances, such as a change of control, a portion of these obligations may be accelerated. In addition, contractual provisions relating to these contingent earn-out obligations may include covenants to operate the businesses acquired in a manner that may not otherwise be most advantageous to the Company.

The Company made its final contingent consideration payment of $16.8 million to the former Adiana shareholders, which was net of amounts withheld for qualifying legal costs, in the first quarter of fiscal 2013.

The measurement period for the Company s remaining contingent consideration obligation to the former shareholders of Sentinelle Medical was completed in the fourth quarter of fiscal 2012. The Company accrued $3.4 million as of September 29, 2012 and made its final payment in the first quarter of fiscal 2013.

In connection with the Company s acquisition of Interlace in fiscal 2011, the Company has an obligation to the former stockholders to make contingent payments over a two-year period up to a maximum payout of $225.0 million based on a multiple of incremental revenue growth during the two-year period following the completion of the acquisition. Pursuant to ASC 805, the Company recorded its estimate of the fair value of the contingent consideration liability based on future revenue projections of the Interlace business under various potential scenarios and weighted probability assumptions of these outcomes. The discount rate is based on the weighted-average cost of capital of the acquired business plus a credit risk premium for non-performance risk related to the liability pursuant to ASC 820, *Fair Value Measurements and Disclosures* (ASC 820). This fair value measurement was based on significant inputs not observable in the market and thus represented a Level 3 measurement as defined in ASC 820. This fair value measurement is directly impacted by the Company s estimate of future incremental revenue growth of the business. Accordingly, if actual revenue

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growth is higher or lower than the estimates within the fair value measurement, the Company would record additional charges or benefits, respectively, as appropriate. The Company recorded charges of $10.0 million and $5.6 million in the first quarter of fiscal 2013 and 2012, respectively, to record the contingent consideration liability at fair value. As of December 29, 2012, the Company has accrued $93.0 million for the contingent consideration liability to the former Interlace stockholders, which when disbursed will be net of legal indemnification holdbacks.

In connection with the Company s acquisition of TCT, the Company has an obligation to certain of the former shareholders, based on future employment, to make contingent payments over a two year period not to exceed $200.0 million less a deferred payment of $35.0 million from the initial consideration. The first earn-out payment of $54.0 million was made in the fourth quarter of fiscal 2012. At December 29, 2012, the Company has accrued $68.5 million for the second contingent earn-out payment.

In connection with the Company s acquisition of Healthcome, the Company has an obligation to the former shareholders to make contingent payments totaling $5.0 million over the next two fiscal years. At December 29, 2012, the Company has accrued $5.0 million for these contingent payments as employment was no longer required.

A summary of amounts recorded to the Consolidated Statements of Operations is as follows:

| Statement of Operations Line Item | 3 Months Ended December 29, 2012 | Interlace | TCT | Total |
|---|---|---|---|---|
| Contingent consideration | compensation expense | $ | $ 29,486 | $ 29,486 |
| Contingent consideration | fair value adjustments | 10,040 | | 10,040 |
| | | $ 10,040 | $ 29,486 | $ 39,526 |

| Statement of Operations Line Item | 3 Months Ended December 24, 2011 | Sentinelle Medical | Interlace | TCT | Healthcome | Total |
|---|---|---|---|---|---|---|
| Contingent consideration | compensation expense | $ | $ | $ 10,012 | $ 429 | $ 10,441 |
| Contingent consideration | fair value adjustments | (468) | 5,590 | | | 5,122 |
| | | $ (468) | $ 5,590 | $ 10,012 | $ 429 | $ 15,563 |

***(b) Litigation and Related Matters***

On June 9, 2010, Smith & Nephew, Inc. filed suit against Interlace, which the Company acquired on January 6, 2011, in the United States District Court for the District of Massachusetts. In the complaint, it is alleged that the Interlace MyoSure hysteroscopic tissue removal device infringes U.S. patent 7,226,459. The complaint seeks permanent injunctive relief and unspecified damages. A Markman hearing on claim construction was held on November 9, 2010, and a ruling was issued on April 21, 2011. On November 22, 2011, Smith & Nephew, Inc. filed suit against the Company in the United States District Court for the District of Massachusetts. In the complaint, it is alleged that use of the MyoSure hysteroscopic tissue removal system infringes U.S. patent 8,061,359. The complaint seeks preliminary and permanent injunctive relief and unspecified damages. On January 17, 2012, at a hearing on Smith & Nephew s motion for preliminary injunction with respect to the suit filed on November 22, 2011, the judge did not issue an injunction, consolidated the two matters for a single trial and scheduled a trial on the merits for both claims for June 25, 2012. A case management conference held on February 14, 2012 resulted in the trial being rescheduled to begin on August 20, 2012. On March 15, 2012, the Court heard summary judgment arguments related to the 459 patent and claim construction arguments related to the 359 patent. On June 5, 2012, the Court denied Smith & Nephew s request for summary judgment of infringement, denied Smith & Nephew s request for preliminary injunction, and denied the Company s requests for summary judgment of non-infringement and invalidity. On September 4, 2012, following a two week trial, the jury returned a verdict of infringement of both the 459 and 359 patents and assessed damages of $4.0 million. The court has not yet entered judgment adopting the jury s finding. Based in part on the fact the United States Patent and Trademark Office ( USPTO) has taken up a re-examination of both the 359 and 459 patents rejecting all previously issued claims, including all claims asserted against the MyoSure product, the Company has filed post trial motions seeking to reverse the jury s rulings. A bench trial regarding the Company s assertion of inequitable conduct on the part of Smith & Nephew with regard to the 359 was held on December 9, 2012. A hearing on post-trial motions for that trial is scheduled for February 7, 2013. At this time, based on available information regarding this litigation, the Company does not believe a loss is probable and is unable to reasonably assess the ultimate outcome of this case or determine an estimate, or a range of estimates, of potential losses, beyond the pending jury verdict. The purchase and sale agreement associated with the acquisition of Interlace includes an indemnification provision that provides for the reimbursement of a portion of legal expenses in defense of

the Interlace intellectual property. The Company has the right to collect certain amounts set aside in escrow and, as applicable, offset contingent consideration payments of qualifying legal costs. The Company is recording legal fees incurred for this suit pursuant to the indemnification provision net within accrued expenses.

On February 10, 2012, C.R. Bard (as acquirer of SenoRx, Inc. SenoRx ) filed suit against the Company in the United States District Court for the District of Delaware. In the complaint, it is alleged that the Company s MammoSite product infringes SenoRx s U.S. Patents 8,079,946 and 8,075,469. The complaint seeks permanent injunctive relief and unspecified damages. On September 4, 2012 and October 16, 2012 the USPTO took up a re-examination of the 946 and 469 patents respectively. With respect to the 469 patent, all previously issued claims were rejected and for the 846 patent all but four claims were rejected. Based on the actions of the USPTO, the Company has filed a motion seeking to stay all litigation proceedings pending the outcome of the USPTO s re-examination of both patents in suit. On January 11, 2013 the court issued an order denying the stay. At this time, based on available information regarding this litigation, the Company is unable to reasonably assess the ultimate outcome of this case or determine an estimate, or a range of estimates, of potential losses.

On March 6, 2012, Enzo Life Sciences, Inc. ( Enzo ) filed suit against the Company in the United States District Court for the District of Delaware. In the complaint, it is alleged that certain of the Company s molecular diagnostics products, including without limitation products based on its proprietary Invader chemistry such as Cervista HPV high risk and Cervista HPV 16/18, infringe Enzo s U.S. Patent 6,992,180. The complaint seeks permanent injunctive relief and unspecified damages. The Company was formally served with the complaint on July 3, 2012, but no hearing has been scheduled. In January 2012, Enzo filed suit against Gen-Probe in the United States District Court for the District of Delaware. In that complaint, it is alleged that certain of Gen-Probe s diagnostics products, including products that incorporate Gen-Probe s patented HPA technology, such as the APTIMA Combo 2 and APTIMA HPV assays, infringe Enzo s U.S. Patent 6,992,180. The complaint seeks permanent injunctive relief and unspecified damages. At this time, based on available information regarding this litigation, the Company is unable to reasonably assess the ultimate outcome of this case or determine an estimate, or a range of estimates, of potential losses.

Prior to its acquisition by Hologic, Gen-Probe had patent infringement claims against Becton Dickinson ( BD ) seeking monetary damages and injunctive relief. The parties settled this litigation in the first quarter of fiscal 2013. Under the terms of the settlement, BD made a one-time payment and was granted a non-exclusive royalty-bearing license to the asserted intellectual property.

A number of lawsuits have been filed against the Company, Gen-Probe, and Gen-Probe s board of directors. These include: (1) Teamsters Local Union No. 727 Pension Fund v. Gen-Probe Incorporated, et al. (Superior Court of the State of California for the County of San Diego); (2) Timothy Coyne v. Gen-Probe Incorporated, et al. (Delaware Court of Chancery); and (3) Douglas R. Klein v. John W. Brown, et al. (Delaware Chancery Court). The two Delaware actions have been consolidated into a single action titled: In re: Gen-Probe Shareholders Litigation. The suits were filed after the announcement of our acquisition of Gen-Probe on April 30, 2012 as putative stockholder class actions. Each of the actions assert similar claims alleging that Gen-Probe s board of directors failed to adequately discharge its fiduciary duties to shareholders by failing to adequately value Gen-Probe s shares and ensure that Gen-Probe s shareholders received adequate consideration in our acquisition of Gen-Probe, that the acquisition was the product of a flawed sales process, and that the Company aided and abetted the alleged breach of fiduciary duty. The plaintiffs demand, among other things, a preliminary and permanent injunction enjoining our acquisition of Gen-Probe and rescinding the transaction or any part thereof that has been implemented. On May 24, 2012, the plaintiffs in the Delaware action filed an amended complaint, adding allegations that the disclosures in Gen-Probe s preliminary proxy statement were inadequate. The defendants in the Delaware action answered the complaint on June 4, 2012. On July 18, 2012, the parties in the Delaware action entered into a memorandum of understanding regarding a proposed settlement of the litigation. The proposed settlement is conditioned upon, among other things, the execution of an appropriate stipulation of settlement, consummation of the merger, and final approval of the proposed settlement by the Delaware Court of Chancery. On July 9, 2012, the plaintiffs in the California action filed a motion for voluntary dismissal without prejudice. On July 12, 2012, the California Superior Court entered an order dismissing the California complaint without prejudice.

The Company is a party to various other legal proceedings and claims arising out of the ordinary course of its business. The Company believes that except for those described above there are no other proceedings or claims pending against it the ultimate resolution of which would have a material adverse effect on its financial condition or results of operations. In all cases, at each reporting period, the Company evaluates whether or not a potential loss amount or a potential range of loss is probable and reasonably estimable under ASC 450, *Contingencies*. Legal costs are expensed as incurred.

**(7) Sale of Makena**

On January 16, 2008, the Company entered into an agreement to sell the full world-wide rights of its Makena (formerly Gestiva) pharmaceutical product to K-V Pharmaceutical Company ( KV ) upon FDA approval of the then pending Makena new drug application for $82.0 million. The Company executed certain amendments to this agreement resulting in an increase of the total sales price to $199.5 million and changing the timing of when payments are due to the Company. Gains attributable to payments in the amount of $79.5 million received from KV prior to FDA approval were deferred.

On February 3, 2011, the Company received FDA approval of Makena, and subject to a security interest and a right of reversion for failure to make future payments, all rights to Makena were transferred to KV. Upon FDA approval, the Company received $12.5 million, and including

the $79.5 million previously received, the Company recorded a gain on the sale of intellectual property, net of the write-off of certain assets, of $84.5 million in the second quarter of fiscal 2011. Pursuant to the amended agreement, the Company received $12.5 million in the second quarter of fiscal 2012, which was recorded net of amounts due to the inventor of Makena. The Company was to receive the remaining $95.0 million of the sales price over a period of 18 to 30 months from FDA approval (subject to further deferral elections) depending on which one of two payment options KV selected. KV would also have owed the Company a 5% royalty on sales for certain time periods determined based upon the payment option or deferral elections selected by KV. On August 4, 2012, KV and certain of its subsidiaries filed voluntary petitions for reorganization under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York. The Company had been pursuing its claims against KV in these proceedings for amounts due to the Company under its agreement with KV, and in December 2012, the

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Company and KV executed a settlement agreement, which became effective on December 28, 2012 upon the Bankruptcy Court entering certain orders. Under the settlement agreement, the Company released KV from all claims in consideration of a $60.0 million payment. The Company recorded this amount in the first quarter of fiscal 2013, net of certain costs, including contingent fees and amounts due to the inventor, resulting in a gain of $53.9 million. The Company will receive no further payments from KV.

**(8) Marketable Securities**

The Company s marketable securities are comprised of an equity security and mutual funds. The equity security is an investment in the common stock of a publicly traded company, and the mutual funds are to fund the Gen-Probe deferred compensation plan. The equity security is classified as available-for-sale and is recorded at fair value with the unrealized gains or losses, net of tax, within accumulated other comprehensive income (loss), which is a component of stockholders equity. The mutual funds are classified as trading and are recorded at fair value with unrealized gains and losses recorded in other income in the Consolidated Statements of Income.

The following reconciles the cost basis to the fair market value of the Company s one equity security as of December 29, 2012.

| | Cost | Gross Unrealized Gains | Gross Unrealized Losses | Fair Value |
|---|---|---|---|---|
| Equity security | $ 5,931 | $ | $ (459) | $ 5,472 |

**(9) Net Income Per Share**

A reconciliation of basic and diluted share amounts are as follows:

| | Three Months Ended | |
|---|---|---|
| | December 29, 2012 | December 24, 2011 |
| Basic weighted average common shares outstanding | 266,344 | 262,717 |
| Weighted average common stock equivalents from assumed exercise of stock options and restricted stock units | 3,035 | 2,241 |
| Diluted weighted average common shares outstanding | 269,379 | 264,958 |
| Weighted-average anti-dilutive shares related to: | | |
| Outstanding stock options | 8,207 | 10,827 |
| Restricted stock units | | 1,588 |

**(10) Stock-Based Compensation**

The following presents stock-based compensation expense in the Company s Consolidated Statements of Income:

| | Three Months Ended | |
|---|---|---|
| | December 29, 2012 | December 24, 2011 |
| Cost of revenues | $ 1,834 | $ 1,107 |
| Research and development | 1,868 | 1,201 |
| Selling and marketing | 2,201 | 1,550 |
| General and administrative | 5,941 | 4,799 |
| Restructuring | 222 | |
| | $ 12,066 | $ 8,657 |

The Company granted approximately 2.1 million and 2.0 million stock options during the three months ended December 29, 2012 and December 24, 2011, respectively, with weighted average exercise prices of $19.86 and $17.02, respectively. There were 19.0 million options outstanding at December 29, 2012 with a weighted average exercise price of $17.86.

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The Company uses a binomial model to determine the fair value of its stock options. The weighted-average assumptions utilized to value these stock options are indicated in the following table:

| | Three Months Ended | |
|---|---|---|
| | December 29, 2012 | December 24, 2011 |
| Risk-free interest rate | 0.5% | 0.7% |
| Expected volatility | 43.7% | 46.9% |
| Expected life (in years) | 4.4 | 4.3 |
| Dividend yield | | |
| Weighted average fair value of options granted | $ 7.06 | $ 6.41 |

The Company granted approximately 1.8 million and 1.5 million restricted stock units (RSU) during the three months ended December 29, 2012 and December 24, 2011, respectively, with weighted average grant date fair values of $19.86 and $17.08, respectively. As of December 29, 2012, there were 4.2 million unvested RSUs outstanding with a weighted average grant date fair value of $18.00. The Company also granted approximately 0.1 million market stock units (MSU) during the three months ended December 29, 2012 to its chief executive officer and chief financial officer. The MSUs were valued at $18.49 using the Monte Carlo simulation model. Each recipient of the MSUs is eligible to receive between zero and 200% of the target number of shares of the Company s common stock at the end of three years provided the Company s stock price achieves the defined measurement criteria. The Company will recognize compensation expense over the required service period, and since these are market-based awards, the compensation expense will be recognized by the Company regardless of whether the required criteria is met to receive such shares.

The Company uses the straight-line attribution method to recognize stock-based compensation expense for stock options and RSUs. The vesting term of stock options granted to employees is generally five years with annual vesting of 20% per year on the anniversary of the grant date, and RSUs granted to employees generally vest over four years with annual vesting at 25% per year on the anniversary of the grant date. The amount of stock-based compensation recognized during a period is based on the value of the portion of the awards that is ultimately expected to vest. Based on an analysis of historical forfeitures, the Company has determined a specific forfeiture rate for certain employee groups and has applied forfeiture rates ranging from 0% to 7% as of December 29, 2012. This analysis is periodically re-evaluated and forfeiture rates will be adjusted as necessary. Ultimately, the actual stock-based compensation expense recognized will only be for those stock options and RSUs that vest.

At December 29, 2012, there was $54.1 million and $66.1 million of unrecognized compensation expense related to stock options and stock units (comprised of RSUs and MSUs), respectively, to be recognized over a weighted average period of 3.5 years and 3.1 years, respectively.

**(11) Other Balance Sheet Information**

| | December 29, 2012 | September 29, 2012 |
|---|---|---|
| **Inventories** | | |
| Raw materials | $ 132,031 | $ 134,983 |
| Work-in-process | 71,994 | 93,218 |
| Finished goods | 141,284 | 138,990 |
| | $ 345,309 | $ 367,191 |
| **Property and equipment** | | |
| Equipment and software | $ 298,691 | $ 296,776 |
| Equipment under customer usage agreements | 260,210 | 249,692 |
| Building and improvements | 156,781 | 156,665 |
| Leasehold improvements | 73,170 | 71,943 |
| Land | 51,455 | 51,430 |
| Furniture and fixtures | 21,921 | 21,495 |
| | 862,228 | 848,001 |

| | | | |
|---|---|---|---|
| Less | accumulated depreciation and amortization | (358,157) | (340,003) |
| | | $ 504,071 | $ 507,998 |

**(12) Business Segments and Geographic Information**

The Company has four reportable segments: Breast Health, Diagnostics, GYN Surgical and Skeletal Health. Certain reportable segments represent an aggregation of operating units within each segment. The Company measures and evaluates its reportable segments based on segment revenues and operating income (loss) adjusted to exclude the effect of non-cash charges, such as intangible asset amortization expense, contingent consideration charges, restructuring and divestiture charges and other one-time or unusual items and related tax effects.

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Identifiable assets for the four principal operating segments consist of inventories, intangible assets including goodwill, and property and equipment. The Company fully allocates depreciation expense to its four reportable segments. The Company has presented all other identifiable assets as corporate assets. There were no intersegment revenues during the three months ended December 29, 2012 and December 24, 2011. Segment information is as follows:

| | Three Months Ended | |
|---|---|---|
| | December 29, 2012 | December 24, 2011 |
| Total revenues: | | |
| Diagnostics | $ 305,916 | $ 154,064 |
| Breast Health | 220,808 | 215,352 |
| GYN Surgical | 80,909 | 78,545 |
| Skeletal Health | 23,729 | 24,750 |
| | $ 631,362 | $ 472,711 |
| Operating income (loss): | | |
| Diagnostics | $ 14,295 | $ 20,138 |
| Breast Health | 44,946 | 47,417 |
| GYN Surgical | 622 | (5,013) |
| Skeletal Health | 3,366 | 4,217 |
| | $ 63,229 | $ 66,759 |
| Depreciation and amortization: | | |
| Diagnostics | $ 91,542 | $ 39,989 |
| Breast Health | 9,930 | 10,604 |
| GYN Surgical | 26,479 | 26,088 |
| Skeletal Health | 204 | 442 |
| | $ 128,155 | $ 77,123 |
| Capital expenditures: | | |
| Diagnostics | $ 13,853 | $ 7,038 |
| Breast Health | 3,580 | 1,569 |
| GYN Surgical | 2,745 | 2,749 |
| Skeletal Health | 179 | 457 |
| Corporate | 2,090 | 2,863 |
| | $ 22,447 | $ 14,676 |

| | December 29, 2012 | September 29, 2012 |
|---|---|---|
| Identifiable assets: | | |
| Diagnostics | $ 6,061,568 | $ 6,170,553 |
| Breast Health | 952,292 | 956,134 |
| GYN Surgical | 1,923,953 | 1,944,386 |
| Skeletal Health | 33,513 | 32,778 |

| | | |
|---|---|---|
| Corporate | 1,497,229 | 1,373,257 |
| | $ 10,468,555 | $ 10,477,108 |

The Company had no customers with balances greater than 10% of accounts receivable as of December 29, 2012 or September 29, 2012, or any customer that represented greater than 10% of product revenues during the three months ended December 29, 2012 and December 24, 2011.

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Products sold by the Company internationally are manufactured at both domestic and international locations. Transfers between the Company and its subsidiaries are generally recorded at amounts similar to the prices paid by unaffiliated foreign dealers. All intercompany profit is eliminated in consolidation.

The Company operates in the major geographic areas as noted in the below chart. Revenue data is based upon customer location, and internationally totaled $175.4 million and $117.5 million during the three months ended December 29, 2012 and December 24, 2011, respectively. Other than the United States, no single country accounted for more than 10% of consolidated revenues. The Company s sales in Europe are predominantly derived from Germany, the United Kingdom and the Netherlands. The Company s sales in Asia-Pacific are predominantly derived from China, Australia and Japan. The All others designation includes Canada, Latin America and the Middle East.

Revenues by geography as a percentage of total revenues are as follows:

| | Three Months Ended | |
|---|---|---|
| | December 29, 2012 | December 24, 2011 |
| United States | 72% | 75% |
| Europe | 14% | 12% |
| Asia | 9% | 7% |
| All others | 5% | 6% |
| | 100% | 100% |

**(13) Income Taxes**

In accordance with ASC 740, *Income Taxes*, each interim period is considered integral to the annual period and tax expense is measured using an estimated annual effective tax rate. An entity is required to record income tax expense each quarter based on its best estimate of the annual effective tax rate for the full fiscal year and use that rate to provide for income taxes on a current year-to-date basis, as adjusted for discrete taxable events that occur during the interim period. If an entity has a year-to-date loss in an interim period and anticipates a loss for the full fiscal year; the entity should apply the estimated annual effective tax rate to record the interim tax provision applicable to the loss. If, however, the entity is unable to reliably estimate its annual effective tax rate, then the actual effective tax rate for the year-to-date may be the best annual effective tax rate estimate. For the three months ended December 29, 2012, the Company determined that it was unable to make a reliable annual effective tax rate estimate due to the rate sensitivity as it relates to its forecasted fiscal 2013 results. Therefore, the Company recorded a tax benefit for the three months ended December 29, 2012 based on the effective rate for the three months ended December 29, 2012.

The Company s effective tax rate for the three months ended December 29, 2012 was 142.4% compared to 47.8% for the three months ended December 24, 2011. For the three months ended December 29, 2012, the tax rate benefit was primarily due to a $19.4 million valuation allowance release related to built-in capital losses, that the Company has concluded are more likely than not realizable as a result of the $53.9 million gain recorded on the Makena sale (see Note 7), partially offset by non-deductible contingent consideration compensation expense related to TCT and Interlace. For the three months ended December 24, 2011, the effective tax rate was higher than the statutory rate primarily due to non-deductible contingent compensation expense related to TCT and contingent consideration fair value adjustments for Interlace and Sentinelle Medical. The Company also established a $2.8 million valuation allowance against Canadian tax credits due to uncertainties surrounding its ability to continue to generate future taxable income to fully utilize these tax assets.

On January 2, 2013, the American Taxpayer Relief Act of 2012 was enacted which retroactively reinstated and extended the Federal Research tax credit from January 1, 2012 to December 31, 2013. As a result, the Company expects its income tax provision for the second quarter of fiscal 2013 will include a discrete tax benefit that will impact the second quarter s income tax provision for the previously expired period from January 1, 2012 to December 31, 2012.

As of December 29, 2012, the Company has recorded $1.69 billion of net deferred tax liabilities compared to $1.76 billion at September 29, 2012. The Company s deferred tax assets are periodically evaluated to determine their recoverability.

The Company has $56.7 million of gross unrecognized tax benefits, including interest, as of December 29, 2012. This represents the unrecognized tax that, if recognized, would reduce the Company s effective tax rate. The Company s policy is to recognize accrued interest and penalties related to unrecognized tax benefits and income tax liabilities within income tax expense. As of December 29, 2012, accrued interest,

net of tax benefit, was $1.9 million and no penalties have been accrued.

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**(14) Goodwill and Intangible Assets**

***Goodwill***

A rollforward of goodwill activity by reportable segment from September 29, 2012 to December 29, 2012 is as follows:

| | Breast Health | Diagnostics | GYN Surgical | Skeletal Health | Total |
|---|---|---|---|---|---|
| Balance at September 29, 2012 | $ 635,741 | $ 2,283,447 | $ 1,015,466 | $ 8,125 | $ 3,942,779 |
| Gen-Probe acquisition adjustments | | (1,426) | | | (1,426) |
| Tax adjustments | | (67) | | | (67) |
| Foreign currency | (477) | 34 | 587 | | 144 |
| Balance at December 29, 2012 | $ 635,264 | $ 2,281,988 | $ 1,016,053 | $ 8,125 | $ 3,941,430 |

***Intangible Assets***

Intangible assets consisted of the following:

| | As of December 29, 2012 | | As of September 29, 2012 | |
|---|---|---|---|---|
| Description | Gross Carrying Value | Accumulated Amortization | Gross Carrying Value | Accumulated Amortization |
| Developed technology | $ 3,790,865 | $ 863,337 | $ 3,784,689 | $ 788,274 |
| In-process research and development | 220,000 | | 227,000 | |
| Customer relationships and contracts | 1,098,231 | 228,268 | 1,097,842 | 205,612 |
| Trade names | 238,101 | 66,161 | 240,092 | 60,318 |
| Patents | 11,852 | 7,992 | 11,417 | 7,906 |
| Business licenses | 2,597 | 411 | 2,577 | 344 |
| Non-competition agreements | 306 | 245 | 310 | 223 |
| Totals | $ 5,361,952 | $ 1,166,414 | $ 5,363,927 | $ 1,062,677 |

The estimated remaining amortization expense as of December 29, 2012 for each of the five succeeding fiscal years is as follows:

| | |
|---|---|
| Remainder of Fiscal 2013 | $ 309,777 |
| Fiscal 2014 | 399,147 |
| Fiscal 2015 | 384,304 |
| Fiscal 2016 | 370,487 |
| Fiscal 2017 | 361,458 |

**(15) Product Warranties**

Product warranty activity was as follows:

| | Balance at Beginning of Period | Provisions | Settlements/ Adjustments | Balance at End of Period |
|---|---|---|---|---|
| Three Months Ended: | | | | |

| | | | | |
|---|---|---|---|---|
| December 29, 2012 | $ 6,179 | $ 3,131 | $ (2,739) | $ 6,571 |
| December 24, 2011 | $ 4,448 | $ 2,063 | $ (1,624) | $ 4,887 |

**(16) Stockholder Rights Plan**

The Amended and Restated Rights Agreement between the Company and American Stock Transfer & Trust Company, as Rights Agent, dated as of April 2, 2008 (the Rights Plan ), and all preferred share purchase rights distributed to holders of the Company s common stock pursuant to the Rights Plan, expired by their terms on January 1, 2013. As a result, the Rights Plan is of no further force and effect.

**(17) Pension and Other Employee Benefits**

The Company has certain defined benefit pension plans covering the employees of its Hitec-Imaging German subsidiary (formerly AEG). As of December 29, 2012 and September 29, 2012, the Company s pension liability was $10.0 million and $9.7

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million, respectively, which is primarily recorded as a component of long-term liabilities in the Consolidated Balance Sheets. As of December 29, 2012 and September 29, 2012, the pension plans held no assets. The Company s net periodic benefit cost and components thereof were not material during the three months ended December 29, 2012 and December 24, 2011.

**(18) Executive Departure**

On January 22, 2013, the Company announced that Carl Hull will be retiring from his role as Senior Vice President and General Manager of Diagnostics. Mr. Hull, who served as Chairman, President and Chief Executive Officer of Gen-Probe until it was acquired by Hologic in August 2012, will continue with the Company as a consultant up to mid-August 2013. As a result, the Company expects to record a charge of approximately $6.5 million in the second quarter of fiscal 2013 related to the acceleration of certain retention payments and equity awards pursuant to the original terms of the related agreements.

**(19) New Accounting Pronouncements**

*Disclosures about Offsetting Assets and Liabilities*

In December 2011, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2011-11, *Disclosures about Offsetting Assets and Liabilities*. ASU 2011-11 amended ASC 210, *Balance Sheet,* to converge the presentation of offsetting assets and liabilities between U.S. GAAP and IFRS. ASU 2011-11 requires that entities disclose both gross information and net information about both instruments and transactions eligible for offset in the statement of financial position and instruments and transactions subject to an agreement similar to a master netting arrangement. ASU 2011-11 is effective for fiscal years, and interim periods within those years, beginning after January 1, 2013, which is the Company s fiscal year 2014. The Company is currently evaluating the impact of the adoption of ASU 2011-11 on its consolidated financial statements.

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**(20) Supplemental Guarantor Condensed Consolidating Financials**

The Company s Senior Notes issued in August 2012 are fully and unconditionally and jointly and severally guaranteed by Hologic, Inc. ( Parent/Issuer ) and each of its domestic subsidiaries. The following represents the supplemental condensed financial information of Hologic, Inc. and its guarantor and non-guarantor subsidiaries, as of December 29, 2012 and September 29, 2012 and for the three months ended December 29, 2012 and December 24, 2011.

**SUPPLEMENTAL CONDENSED CONSOLIDATING BALANCE SHEET**

**December 29, 2012**

| | Parent/Issuer | Guarantor Subsidiaries | Non-Guarantor Subsidiaries | Eliminations | Consolidated |
|---|---|---|---|---|---|